...ase; and every popu... denies it. His fame stan... high to need any artific... And I protest against subm... ing the measure of my political faith ... be tested by the anomalous and degrad... ing standard of the Virginia expunging resolutions.

I ask pardon of the House for digressing in a few subsequent allusions to matters having no connexion with the House of Representatives. I could not, were I disposed to, be ignorant of the current insinuations from numerous irresponsible sources, to injure me politically in public estimation.

I perfectly understand the authors of the engines of detraction set in motion to dragoon me into a state of abject political servility, or to render life unpleasant as the price of independence and integrity. My first responsible political act was a vote given in 1808, to aid in bringing Simon Snyder into the gubernatorial chair.

To many of you it is known, and a recurrence to past events will prove, that I have enjoyed a reasonable, perhaps, as some have *complained*, an undue share of the confidence of every democratic administration from that to the present time. I have frequently, from a sense of duty, differed from my political friends in power, as to party measures, without once thinking that thereby I was incurring party proscription and anathema; and still less for expressing an honest difference of opinion as to the import and meaning of the Constitution. Having thus passed on, without known or intentional deviation, for a term of nearly thirty years, now, if nothing but immolation will appease my enemies, let the blow come. I am prepared for the WORST, and only regret that I can point to so many names, of higher merit, who have much sooner sunk under the baneful effects of this systematized ostracism.

The public records, as cited above, show clearly, that, acting under official oath twenty-one years ago, I declared against the doctrine of expurgation.

I must now be content with the opinion of the House as to my sincerity, when I declare that every consideration which I have been able to bestow on the subject since, has confirmed me stronger in the correctness of that opinion. Under these circumstances I ask the House of Representatives, what was my duty as a Senator? I answer for myself. If my health had permitted, I would have been taken to the Senate Chamber on the night of the 16th of January, and would have offered my proposition, reversing the resolution of the 28th of March, 1834; and if this had been rejected, I would then, as one of the most imperative and conscientious duties of my life, have voted against the expunging resolution, freely awarding to others, who have thought and acted differently, what I claim for myself, viz. honesty of purpose. I declare to you, gentlemen of the House of Representatives, that I could not vote for that resolution, without having, in my own estimation, COMMITTED a flagrant infraction of the constitution of my country a clear violation of the oath I had taken to support it, and must stand, ever after, before GOD and my own conscience, GUILTY of deliberate moral PERJURY

SAMUEL McKEAN.

Washington Feb 10 1837

From the Raleigh Register.

SUPREME COURT.

In the case of the *State* v *Benton*, decided at the present term of the Supreme Court, questions relating to the mode of drawing Juries, the time and manner of making challenges, and the nature and sufficiency of the grounds of challenge, were discussed at the bar and determined by the Court. And as the matters so determined are of immediate influence upon the practice in the Superior Courts, and in the regular course of publication the Report of the case will not reach the Profession before the close of the Spring Circuit, it is thought that a sketch of the points so determined, in anticipation of the full Report, will be acceptable alike to the Judges and the Bar of the Superior Courts.

A brief summary of these points has, under this impression, been prepared by a gentleman of the Bar, from the very elaborate, clear and learned opinion of the Court, as delivered by Mr. Justice Gaston, and we now present it to the public.

STATE v BENTON.

Abstract of the points ruled in this Case.

1. It is not error, for a Judge in a capital case to direct the Jurors of the original panel (more than twelve being in attendance) to be first drawn and tendered to the prisoner, although the prisoner demanded that the names of the talesmen should be put into the box and drawn with those of the original panel. For, although the latter proceeding *might* not be erroneous, the former is most regular and in best accordance with the statutory regulations on the subject of Juries. And the same mode of proceeding should be adopted, as well where a special *venire* has been awarded under the act of 1830, as where talesmen Jurors are summoned *de circumstantibus*.

2. When a Juror is directed by the Attorney General to stand aside until the panel is gone through, it is a challenge for cause *then* taken, but of which the cause is not to be declared until, by the whole number of Jurors being disposed of without completing an inquest, it becomes necessary to inquire of the cause of such challenge in order to proceed with the trial. Where the original panel is first drawn, (as it should always be if more than twelve of the Jurors are in attendance) the Attorney General must declare the cause of challenge taken to one of that panel so soon as that panel is disposed of, as it is not regular to call upon tales Jurors except for want of Jurors of the original panel. After the original panel is exhausted, *all the other Jurors in attendance*, whether summoned on a special *venire* or *de circumstantibus*, constitute but *one panel*—and the Attorney General has a right to withhold the declaration of his cause of challenge till it is gone through, subject to this qualification, that when the Court shall see that oppressive or other injurious consequences may result from the extreme assertion of such right, the Court may, in the exercise of a sound discretion to prevent such consequences, require him to declare the cause of challenge at an earlier period.—When less than 12 of the original panel are in attendance, they should be added to the *tales* and form one panel. The right so to set aside a Juror exist now, as it did before the act of 1827, giving a certain number of peremptory challenges to the Officer prosecuting for the State. And when the officer is called upon to assign his cause of challenge, if it be overruled by the Court, he may challenge the same Juror peremptorily, or he may, if he pleases, waive his challenge, and in that case the Juror may be tendered to the prisoner.

3. The disallowance of a legal challenge, whereby the party is compelled to accept as a Juror one whom he had a right to reject, is error in law, which vitiates the virdict, and is to be corrected not by a new trial, but properly by a *venire de novo*. Therefore a challenge should be distinctly taken in order that the opposite party may either deny the truth of the matter alleged, or avoid it by counter-plea of new matter, or demur to its sufficiency in law. Where an issue of fact arises, as in the two first cases, it is to be tried, either by triers according to the ancient usage, or (which is the best and most convenient mode) by the Court, by the assent of the parties, according to our practice—and when the facts appear, either by finding or admission, the sufficiency of the challenge is a question of law, to the decision of which by the Judge, exception may be taken as in other cases—and the whole matter should then be distinctly set forth on the record. Where however nothing appears but a challenge taken for a certain cause and overruled by the Court, it will be intended that the cause of challenge was admitted or proved, and its sufficiency only passed on by the Judge. But if the *fact* be put in issue, *its* determination, whether by triers or the Court, is conclusive and cannot be re-examined.

4. The practice which has obtained in this State of putting to Jurors (before and without any challenge taken) what is called "the preliminary question," irregular and unwarranted by law. It is true the Judge, if he have reason to think there are improper persons on the list of Jurors, may, if he pleases, proceed to purge the panel before drawing and tendering the Jurors; or a Juror may ask to be excused on account of his state of mind, as well as other grounds, and the Judge may consider the application and, in his discretion, discharge the Juror; or if the parties choose, they may submit to the Judge to examine into the indifferency of the Jurors for them, and the Judge may, if he think proper, exercise this function, and in either case may, in order to exercise it with effect, examine the Jurors on oath; but in the last case, there should be an express waiver by the parties, of all right to challenge except peremptorily. Except in these instances, such preliminary examinations are improper—for until a Juror is challenged and the cause of challenge alleged, there is nothing before the Court to which any examination is pertinent. The party should first declare his challenge and its cause—if the fact alleged is denied, then, and not till then, arises a case for examination of the Juror or any other person.

5. A Juror to be competent must "stand indifferent as he stands unsworn," and therefore, one who has made up and declared his opinion touching the matter to be tried, is not a competent Juror.—This prejudication of the matter constitutes a principal cause of challenge; for the law, upon the fact of such prejudication appearing, determines that the Juror is under such a bias as does not leave his mind free to act upon the evidence; and therefore the fact being proved or admitted, nothing is left to discretion, but the Judge must declare the Juror unindifferent as a conclusion of law.—But no one can object to the Juror, on account of such bias, but the party against whom the bias operates; and therefore when a Juror is challenged by one accused of a crime on the ground that he has formed and expressed an opinion, it must appear, in order to sustain the challenge, that the opinion so formed and expressed was an opinion that the accused was guilty. To constitute ground of principal challenge, there must be a settled opinion—a case where the mind of the Juror is made up on the question to be tried. Hypothetical opinions—impressions not amounting to this state of mind—do not support a principal challenge. They lead to suspicion of bias, but do not show bias expressly—from them the law does not draw an inference of unindifferency, and therefore they can only be offered as ground of challenge to *the favour*, in which class of challenges, the question of unindifferency is submitted to the Court or the triers, as an inference of *fact* to be drawn or not drawn, as in their discretion shall seem proper in each case.

6. A Juror may be examined in every case to prove the cause of challenge alledged against him, unless the matter tend to his infamy or discredit; but to form and express an opinion that one accused of a crime is guilty, does not of itself import any thing infamous or discreditable in the Juror, and therefore a Juror challenged on that account may be himself examined to show the fact.

7. The ground on which declaring an opinion disqualifies a Juror is, that he may probably be influenced by that opinion, or the reasons on which it is founded, and not solely by the evidence offered on the trial. Therefore he who has found the same matter between other parties, or between the same parties in another suit, or in another trial between the parties in the same suit, is disqualified, since he ought not to be influenced by what he heard on the former trials; and yet the law presumes that he will be so unfluenced. And for the same reason he who forms and declares an opinion from report or hearsay is diqualified.

Albert G. Anderson, of Caswell county, has been admitted to County Court practice.

The Court rose on Saturday evening, after an arduous Term. The following opinions were delivered during the last week:

RUFFIN, C. J. delivered the opinion of the Court in the case of McKinnon v McLean, from Cumberland; reversing the the Judgment below and rendering judgment for the plaintiff.

Also in the case of Deu on demise of Skinner v Moore, from Chowan; reversing the judgment below.

Daniel, J. delivered the opinion of the Court in the case of Blue v Patterson, in Equity, from Moore; decree for Plaintiff.

Gaston, J. delivered the opinion of the Court in the case of Overman v Clemons, Ex'r, from Caswell; affirming the judgment below.

Also in the case of Black *et al.* v Ray *et al.* in Equity, from Moore; bill dismissed.

Also in the case of the Attorney General v State Bank, in Equity, from Wake; decree for Plaintiff.

REGULA GENERALIS.

Whereas appeals are frequently brought to this Court upon transcripts in which the pleadings are not set forth otherwise than by an abstract or memorandum thereof; and whereas the Act of Assembly creating this Court requires of the Judges to inspect the whole record and to render thereon the proper judgment of the law; it is declared that, henceforth, no final judgment shall be here entered in any cause, until the declaration and other pleadings be fully made and entered of record.

Congress.

IN SENATE—Thursday, March 2

FORTIFICATIONS AND SURPLUS REVENUE.

A message having been received from the House of Representatives disagreeing to the amendment of the Senate in striking out the 2d section of the fortification bill, providing for the distribution of the surplus revenue among the states,

Mr. WRIGHT moved that the Senate do insist upon its amendment.

Mr. CALHOUN expressed his hope that the Senate would recede, and not resist an expression of the will of the Representatives of the people given by so decided a majority as was said to have voted in the other house.

Mr. CLAY said it was at least in order to indulge in suppositions as to what had passed elsewhere; and supposing the land bill to have been rejected in the other House, (a fact he rejoiced to hear,) could any Senator doubt that there would remain a large surplus in the Treasury, especially if other measures which had passed the Senate, and which contemplated large expenditures, should follow the fate of the land bill?

He urged the propriety of submitting to an expression of the popular will, so distinctly manifested as it had now been. Was it not wisdom to look ahead?—to provide for the future? If a surplus accumulated, was it not better to return it to the people of the several states than to leave it in the hands of the deposite banks? As to what had lately been said by the Senator from Pennsylvania (Mr. Buchanan) in regard to his favor for a land bill he had formerly had the honor to introduce, and the favorable prospects of that bill, Mr. C. had not seen any indications in the course of the Senate which would encourage much hope for that measure, (though Mr. C. did not finally relinquish hope in regard to it;) but although he should infinitely prefer such a disposition of the surplus revenue as the bill proposed, he would accept, as an alternative measure, the distribution clause inserted by the other House in the fortification bill, rather than leave the money in the deposite banks. Mr. C. said that the country owed its thanks to the other house for what it had recently done; he rejoiced to see light breaking out in that glorious quarter, so immediately related to the people: and was it possible that a majority of the Senate would oppose the ascertained popular will in relation to the disposition of the surplus revenue? The Senate have tried the House once, and they insisted on the amendment. They knew the ground on which they stood; they well knew that they were with the people in the stand they had taken.

Would the Senate, with all these facts before them, repeat the vote they had given? He trusted not. He put it to the majority, who held the power of this body, whether they would not yield to the wishes of the people; wishes known not merely by the course of their Representatives, but through a thousand other channels, so that it was impossible to mistake it? Would gentlemen insist on leaving the public money in the hands of the deposite banks, and under *such* an agency as now superintended them?

Mr. CRITTENDEN made some remarks, which, owing to his relative position and the noise in the house, could not be heard at the Reporter's seat. He was understood to refer to the reproaches cast on him, and those who voted with him, on a former occasion, for the loss of the fortification bill; and to ask, if the fortification bill should now be lost, at whose door the blame would lie?

Mr. CALHOUN said something still less perfectly heard. He said the naked question was, whether the surplus revenue should be left in the deposite banks, or should be returned to the people to whom it belonged?

The question was now taken, and decided by yeas and nays, as follows:

Yeas—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Dana, Ewing of Illinois, Fulton, Grundy, Hubbard, King of Alabama, King of Georgia, Linn, Lyon, Mouton, Nicholas, Niles, Norvell, Page, Parker, Rives, Ruggles, Sevier, Strange, Tallmadge, Walker, Wright, Wall—28.

Nays—Messrs. Bayard, Clay, Clayton, Calhoun, Crittenden, Davis, Ewing of Ohio, Hendricks, Kent, Knight, Morris, McKean, Moore, Prentiss, Preston, Robbins, Southard, Spence, Swift, Tomlinson, Webster, White—22.

Inaugural Address,

DELIVERED BY MARTIN VAN BUREN, PRESIDENT OF THE UNITED STATES.

4th of March 1837.

FELLOW CITIZENS: The practice of all my predecessors imposes on me an obligation I cheerfully fulfil, to accompany the first solemn act of my public trust with an avowal of the principles that will guide me in performing it, and an expression of my feelings on assuming a charge so responsible and vast. In imitating their example, I tread in the footsteps of illustrious men, whose superiors, it is our happiness to believe, are not found on the executive calendar of any country. Among them we recognize the earliest and firmest pillars of the republic; those by whom our national independence was first declared; him who, above all others, contributed to establish it on the field of battle; and those whose expanded intellect and patriotism constructed, improved, and perfected the inestimable institutions under which we live. If such men, in the position I now occupy, felt themselves overwhelmed by a sense of gratitude for this, the highest of all marks of their country's confidence, and by a consciousness of their inability adequately to discharge the duties of an office so difficult and exalted, how much more must these considerations affect one who can rely on no such claims for favor or forbearance. Unlike all who have preceded me, the revolution, that give us existence as one people, was achieved at the period of my birth; and whilst I contemplate with grateful reverence that memorable event, I feel that I belong to a later age, and that I may expect my countrymen to weigh my actions with the same kind and partial hand.

So sensibly, fellow citizens, do these circumstances press themselves upon me, that I should not dare to enter upon my path of duty, did I not look for the generous aid of those who will be associated with me in the various and co-ordinate branches of the government; did I not repose, with unwavering reliance, on the patriotism, the intelligence, and the kindness, of a people who never yet deserted a public servant honestly laboring in their cause; and above all, did I not permit myself humbly to hope for the sustaining support of an ever watchful and beneficent Providence.

To the confidence and consolation derived from these sources, it would be ungrateful not to add those which spring from our present fortunate condition. Though not altogether exempt from embarrassments that disturb our tranquility at home and threaten it abroad, yet in all the attributes of a great, happy, and flourishing people, we stand without a parallel in the world. Abroad we enjoy the respect, and, with scarcely an exception, the friendship of every nation; at home, while our government quietly, but efficiently, performs the sole legitimate end of political institutions, in doing the greatest good to the greatest number, we present an aggregate of human prosperity surely not elsewhere to be found.

How imperious, then, is the obligation imposed upon every citizen, in his own sphere of action, whether limited or extended, to exert himself in perpetuating a condition of things so singularly happy. All the lessons of history and experience must be lost upon us, if we are content to trust alone to the peculiar advantages we happen to possess. Position and climate, and the bounteous resources that nature has scattered with so liberal a hand—even the diffused intelligence and elevated character of our people—will avail us nothing, if we fail sacredly to uphold those political institutions that were wisely and deliberately formed, with reference to every circumstance that could preserve, or might endanger, the blessings we enjoy. The thoughtful framers of our constitution legislated for our country as they found it. Looking upon it with the eyes of statesmen and of patriots, they saw all the sources of rapid and wonderful prosperity; but they saw also that various habits, opinions, and institutions, peculiar to the various portions of so vast a region, were deeply fixed. Distinct sovereignties were in actual existence, whose cordial union was essential to the welfare and happiness of all. Between many of them there was, at least to some extent, a real diversity of interest, liable to be exaggerated through sinister designs; they differed in size, in population, in wealth, and in actual and prospective resources and power; they varied in the character of their industry and staple productions; and in some existed domestic institutions, which unwisely disturbed, might endanger the. were all these circumstances weighed, and the foundations of the new government harmony of the whole. Most carefully laid upon the principles of reciprocal concession and equitable compromise. The jealousies which the smaller states might entertain of the power of the rest were allayed by a rule of representation, confessedly unequal at the time, and designed forever to remain so. A natural fear that the broad scope of general legislation might bear upon and unwisely control particular interests, was counteracted by limits strictly drawn around the action of the federal authority; and to the people and the states was left unimpaired their sovereign power over the innumerable subjects embraced in the internal government of a just republic, excepting such only as necessarily appertain to the concerns of the whole confederacy, or its intercourse as a united community, with the other nations of the world.

This provident forecast has been verified by time. Half a century, teeming with extraordinary events, and elsewhere producing astonishing results, has passed along, but on our institutions it has left no injurious mark. From a small community, we have risen to be a people powerful in numbers and in strength; but with our increase has gone hand in hand the progress of just principles; the privileges, civil and religious, of the humblest individual are still sacredly protected at home; and while the valor and fortitude of our people have removed far from us the slightest apprehension of foreign power, they have not yet induced us, in a single instance, to forget what is right. Our commerce has been extended to the remotest nations; the value, and even nature, of our productions has been greatly changed; a wide difference has arisen in the relative wealth and resources of every portion of our country; yet the spirit of mutual regard and of faithful adherence to existing compacts, has continued to prevail in our councils, and never long been absent from our conduct. We have learned, by experience, a fruitful lesson; that an implicit and undeviating adherence to the principles on which we set out can carry us prosperously onward through all the conflicts of circumstances, and the vicissitudes inseparable from the lapse of years.

The success that has attended our great experiment, is in itself a sufficient cause for gratitude, on account of the happiness it has actually conferred, and the example it has unanswerably given. But to me, my fellow citizens, looking forward to the far-distant future, with ardent prayers and confiding hopes, this retrospect presents a ground for still deeper delight. It impresses on my mind a firm belief that the perpetuity of our institutions depends upon ourslves; that if we maintain the principles on which they were established, they are destined to confer their benefits on countless generations yet to come; and that America will present to every friend of mankind the cheering proof, that a popular Government, wisely formed, is wanting in no element of endurance or strength. Fifty years ago, its rapid failure was boldly predicted. Latent and uncontrollable causes of dissolution were supposed to exist, even by the wise and good, and not only did unfriendly or speculative theorists anticipate for us the fate of past republics, but the fears of many an honest patriot overbalanced his sanguine hopes. Look back on these forebodings, not hastily, but reluctantly made, and see how, in every instance, they have completely failed.

An imperfect experience, during the struggles of the revolution, was supposed to warrant a belief that the people would not bear the taxation requisite to discharge an immense public debt already incurred, to defray the necessary expenses of the Government. The cost of two wars has been paid, not only without a murmur, but with unequalled alacrity;